

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05-05040-01/02-CR-SW-RED
	)	
JOSE INES IBARRA and	)	
NICOLASA SALAS-SERRANO,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION**  
**OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court are defendants' Motions to Dismiss Count Fourteen of the Superseding Indictment and Count 8, Paragraph 28 and Count Thirteen Paragraph 38.

In support of their Motions to Dismiss Count Fourteen of the Superseding Indictment, the defendants make the conclusory argument that the charge contained therein is in violation of the five-year statute of limitations. In its response, the United States correctly pointed out that the defendants are charged with possessing an alien registration receipt card on November 7, 2005. The superseding indictment was well within the five-year statute of limitations.

Defendants allege that the superseding indictment in Count Eight and Count Thirteen does not adequately advise the identity of the drugs that were allegedly smuggled and those counts should be dismissed or, in the alternative, the defendants have requested a Bill of Particulars. The superseding indictment in this case conforms with the requirement of Rule 7(c) of the Federal Rules of Criminal Procedure. It sufficiently informs the defendants of the

charges against them and tracks the language of the statute. Dismissal of those counts is therefore not appropriate. As the United States notes in its response to the defendants' motions, the defendants have been provided extensive discovery far beyond the requirements of the Federal Rules of Criminal Procedure. Defendant has been allowed to inspect all witness statements, expert statements, physical exhibits and documents in the possession of the United States. The Court should not therefore exercise its discretion and order a Bill of Particulars. It is therefore

RECOMMENDED that defendants' Motions to Dismiss Counts Fourteen from the superseding indictment be denied. It is further

RECOMMENDED that defendants' Motions to Dismiss Counts Eight and Thirteen be denied. It is further

RECOMMENDED that defendants' Motions for a Bill of Particulars be denied.

/s/ James C. England

**JAMES C. ENGLAND, CHIEF  
UNITED STATES MAGISTRATE JUDGE**

Date: October 12, 2006